IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 19572 of 2003

Between:

Kusuluri Surya Rao, S/o. Rattaiah,
R/o. Surapuvarigudem Village, H/o. Buttaigudem,
Buttaigudem Mandal, W.G. District.

..... PETITIONER

AND

1 The Special Deputy Collector (Tribal Welfare),
Kotaramachandrapuram, Buttaigudem Mandal,
W.G. District.
2 The Special Deputy Tahsildar, No.1 Tribal Welfare,
K.R. Puram, Buttaigudem Mandal, W.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order, writ more particularly one in the nature of Writ of Mandamus declare the proceedings in S.R.No. 5/2003 on the file of 1st respondent as illegal, arbitrary and without any power under the provisions of the regulation 1/59 as amended by 1/70 and consequentially direct the respondents to drop the proceedings against the petitioner in S.R.No. 5/2003.

Counsel for the Petitioner : MR.P.R.K.AMARENDRA KUMAR

Counsel for the Respondents : GP FOR SOCIAL WELFARE

The Court made the following :

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ORDER :

The petitioner claims to be in possession and enjoyment of the land admeasuring Acs.9-69 in R.S.No.269/3 of Buttaigudem village in West Godavari District. Aggrieved by the notice issued by the first respondent calling upon the petitioner to show cause as to why he could not be ejected from the land, he filed the present writ petition. The Core contention of the petitioner is that in 1996 at the behest of the Mandal Revenue Officer, Buttaigudem, the Settlement Officer, Kovvur, considered the claim of the petitioner and others and decided the matter in favour of the petitioner holding that no tribal is enjoying the land and that the petitioner and his vendors alone were in occupation of the land. According to the petitioner, when the matter is already decided, it was improper and without jurisdiction for the first respondent to issue notice under Rule 7(2) of Andhra Pradesh Scheduled Areas Land Transfer Rules, 1971.

This Court while admitting the writ petition, by order
dated 17-9-2003 stayed all further proceedings. The respondents have now moved W.V.M.P.No.1461 of 2005 for vacating the interim order. As the controversy is very short, the matter was heard finally and is being disposed of.

Learned counsel for the petitioner Sri P.R.K. Amarendra Kumar relied upon an unreported judgment of this Court dated 31-10-2003 passed in W.P.No.19379 of 2003 wherein this Court while observing that a show cause notice issued by the competent authority is not amenable to the jurisdiction under Article 226 of the Constitution of India, gave liberty to the petitioner therein to file proper explanation

and the Special Deputy Collector was directed to consider the matter keeping in view the orders passed earlier. As the petitioner essentially challenges the show cause notice issued by the first respondent, in the considered opinion of this Court, similar order can be passed.

The writ petition is accordingly disposed of giving liberty to the petitioner to file explanation before the first respondent within a period of one week from the date of receipt of a copy of this order. As and when the case of the petitioner is considered, the first respondent may keep in view the orders passed by the Settlement Officer, Kovvur in S.N.Ro.No.7/94(Reg.2/70), dated 27-12-1996. Till the matter is finally decided by the first respondent, there shall be *statusquo* as on today. No costs.

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(V.V.S.RAO, J.)

21-06-2005.

Msr.

To

1 The Special Deputy Collector (Tribal Welfare),
Kotaramachandrapuram, Buttaigudem Mandal,
W.G. District.
2 The Special Deputy Tahsildar, No.1 Tribal Welfare,
K.R. Puram, Buttaigudem Mandal, W.G. District.

3 2 CCs to Government Pleader for Social Welfare,

High Court Buildings, Hyderabad.

4 2 CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

W.P.No.19572 of 2003

21-06-2005

(Msr)